

**UNITED STATES DISTRICT COURT
for the
DISTRICT OF MASSACHUSETTS**

1:05-cr-10081-MLW-ALL

UNITED STATES OF AMERICA

V.

ALEX S. NEWMAN

DEFENDANT'S MOTION IN LIMINE: LOST OR DESTROYED EVIDENCE

Now comes the Defendant, through counsel, and respectfully moves that the Government be prohibited from offering any evidence pertaining or relating to any alleged conduct or acts of the defendant for which documents relevant to such alleged conduct were lost or destroyed by a person or persons other than the defendant and thus, have not been made available to the defendant for trial.

In support of the within motion the Defendant, through counsel, states that documents (including the computer used by the Defendant) that would have refuted or undermined the Government's claim that the alleged victim in this case was unaware of payments made to the Defendant's accounts, appear to have been lost or destroyed and are, thus, unavailable to the Defendant for use at trial.

Thus, although the Defendant does not allege that the Government has participated in the loss or destruction of evidence or to have been aware of same prior thereto, the prejudice to the Defendant is nonetheless considerable and may be remedied only by limiting the Government's case to that evidence which is not impacted by the loss or destruction of documents relevant to a fact or facts in dispute.

Respectfully Submitted,
Alex Newman
By his attorney,

/s/ Juliane Balliro
Juliane Balliro (BBO#028010)
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Dated: December 27, 2005

Certificate of Service

I hereby certify that, on December 27, 2005, I caused a copy of the foregoing to be filed electronically and via electronic mail to:

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/s/ Juliane Balliro
Juliane Balliro